

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

UNITES STATES PATENT AND TRADEMARK OFFICE

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OCT 12 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RALF REIMELT, HERBERT SCHROTH, and ARMIN WENDLER

Appeal No. 2005-1530
Application 09/899,502

ON BRIEF

Before THOMAS, BLANKENSHIP, AND MACDONALD, **Administrative Patent Judges**.
MACDONALD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on Appellants' Request for Rehearing.

REQUEST FOR REHEARING DENIED.

With full consideration being given to Appellants' remarks¹, we find no basis upon which to grant Appellants' request for rehearing. As was pointed out in the decision² of this panel, Appellants argued that the disclosed wires "twisted about the axis of the cable" (figure 2) are "twisted together" (as recited in claim 13), and that the prior art Feese wires "twisted about its own axis" are not "twisted together" as claimed. As was specifically stated in our decision at page 6, "we find that the claim language does not preclude reading on twisting into a single group that uses twisting wire about its own axis."

While we sympathize with Appellants failure to understand the decision, that is not an appropriate basis upon which to grant a hearing absent some indication of error in the decision. To restate our prior finding, Appellants disclose a wire twisting species (about the cable axis) and a wire twisting genus (twisting together) at figure 2. Appellants then claim the genus at claim 13. Feese teaches a wire twisting species (about the axis of the wire) within the same genus of wires twisted together given the definition of "together". Appellants' reliance on **Phillips v. AWH Corp.**, 35 USPQ2d 1321 (Fed Cir. 2005) is misplaced. We find nothing in **Phillips** to support the proposition that, absent a specific indication in the specification to do so, a broader inclusive term is to be interpreted as having only the same meaning as a narrower term when both terms are used to describe the same feature. We find nothing in Appellants' request pointing to evidence of such a specific indication.

We note that Appellants claim 13 may be amended to limit the twisting to only the species of Appellants' figure 2. However the current claim is not so limited. Again, as was

¹ Request for rehearing at page 3.

² Mailed August 12, 2005.

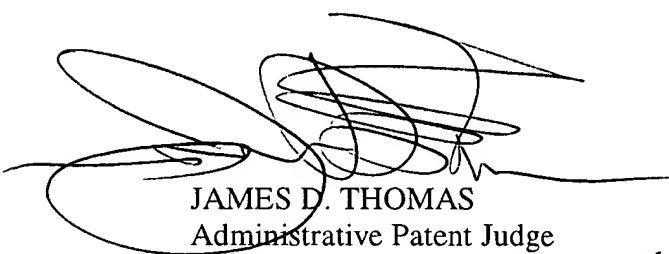
specifically stated in our decision at page 6, "we find that the claim language does not preclude reading on twisting into a single group that uses twisting wire about its own axis."

Conclusion

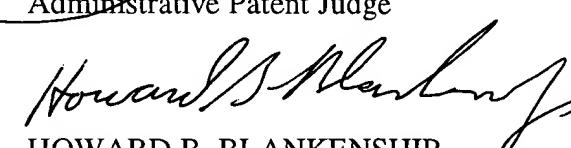
In view of the foregoing discussion, we grant Appellants' request for rehearing to the extent of reconsidering our decision, but we deny Appellants' request with respect to making any change thereto.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

REQUEST FOR REHEARING DENIED



JAMES D. THOMAS
Administrative Patent Judge



HOWARD B. BLANKENSHIP
Administrative Patent Judge



ALLEN R. MACDONALD
Administrative Patent Judge

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314